

MJC:ljc 95470 \Pleadings\95470 1a Our Answer 2-3-21

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

KENDRA THIBAUT, in her Capacity as	:	
Guardian of JHAMAL GONSALVES, ET AL	:	
	:	
VS.	:	C.A. NO. 21- cv-00021-WES-LDA
	:	
HUGH T. CLEMENTS, JR., Individually and in	:	DEFENDANTS DEMAND
his Official Capacity as Chief of Police of the	:	A TRIAL BY JURY.
Providence Police Department, ET AL	:	

ANSWER OF DEFENDANTS KYLE ENDRES AND BRAD McPARLIN

I. INTRODUCTION

1. Denied.
2. Unknown and denied.
3. Denied.
4. Unknown and denied.
5. Neither admitted nor denied.
6. Denied.

II. PARTIES

7. Unknown and denied.
8. Unknown and denied.
9. No answer required by these defendants.
10. No answer required by these defendants.
11. Admitted.
12. Admitted.

13. No answer required by these defendants.

14. No answer required by these defendants.

15. Admitted as to these defendants.

III. JURISDICTION

16. Admitted.

17. Admitted.

IV. FACTS

18. Admitted.

19. Denied.

20. Denied.

21. Denied.

22. Unknown and denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. No answer required by these defendants, and to the extent that any allegations of misconduct are expressed or implied, the allegations are denied.

31. Unknown and denied.

32. Unknown and denied.

33. Unknown and denied.

V. NOTICE OF CLAIM

34. No answer required by these defendants.

VI. COUNT I
42 U.S.C. § 1983

Fourth and Fourteenth Amendment Violations
Against Defendants Endres and McParlin

35. Defendants incorporate their answers to the said realleged paragraphs.

36. Admitted.

37. Denied.

38. Denied.

39. Denied as to any alleged wrongful conduct.

40. Denied.

41. Denied.

42. Denied as to any alleged wrongful conduct.

VII. COUNT II
42 U.S.C. § 1983

Excessive Force Against Defendants Endres and McParlin

43. Defendants incorporate their answers to the said realleged paragraphs.

44. Admitted.

45. Denied.

- 46. Denied.
- 47. Denied as to any alleged wrongful conduct.
- 48. Denied.
- 49. Denied as to any alleged wrongful conduct.

VIII. COUNT III

Negligence Against Defendants Endres and McParlin

- 50. Defendants incorporate their answers to the said realleged paragraphs.
- 51. Denied.
- 52. Denied.
- 53. Admitted.
- 54. No answer required by these defendants, and to the extent that any allegations of misconduct are expressed or implied, the allegations are denied.
- 55. Denied.
- 56. Denied as to any alleged wrongful conduct.

IX. COUNT IV

Gross Negligence/Reckless Conduct Against Defendants Endres, McParlin, City of Providence

- 57. Defendants incorporate their answers to the said realleged paragraphs.
- 58. Admitted.
- 59. Denied.
- 60. Denied.
- 61. Admitted.

62. No answer required by these defendants, and to the extent that any allegations of misconduct are expressed or implied, the allegations are denied.

63. Denied.

64. Denied as to any alleged wrongful conduct.

X. COUNT V

Assault Against Defendants Endres and McParlin

65. Defendants incorporate their answers to the said realleged paragraphs.

66. Denied.

67. Denied.

68. Denied.

69. Denied as to any alleged wrongful conduct.

XI. COUNT VI

Battery Against Defendants Endres and McParlin

70. Defendants incorporate their answers to the said realleged paragraphs.

71. Denied.

72. Denied.

73. Denied.

74. Denied as to any alleged wrongful conduct.

XII. COUNT VII

False Imprisonment Against Defendants Endres and McParlin

75. Defendants incorporate their answers to the said realleged paragraphs.

- 76. Denied.
- 77. Denied.
- 78. Denied.
- 79. Denied.
- 80. Denied as to any alleged wrongful conduct.

XIII. COUNT VIII

Intentional Infliction of Emotional Distress
Against Defendants Endres and McParlin

- 81. Defendants incorporate their answers to the said realleged paragraphs.
- 82. Denied.
- 83. Denied.
- 84. Denied.
- 85. Denied.
- 86. Denied.
- 87. Denied.
- 88. Denied as to any alleged wrongful conduct.

XIV. COUNT IX
42 U.S.C. § 1983

Fourth and Fourteenth Amendment Violations
Against Defendants John and Jane Does, Alias 1-10

- 89. Defendants incorporate their answers to the said realleged paragraphs.

90-96. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XV. COUNT X
42 U.S.C. § 1983

Excessive Force Against Defendants John and Jane Does, Alias 1-10

97. Defendants incorporate their answers to the said realleged paragraphs.

98-103. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XVI. COUNT XI

Negligence Against Defendants John and Jane Does, Alias 1-10

104. Defendants incorporate their answers to the said realleged paragraphs.

105-110. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XVII. COUNT XII

**Gross Negligence/Reckless Conduct Against
Defendants John and Jane Does, Alias 1-10, and City of Providence**

111. Defendants incorporate their answers to the said realleged paragraphs.

112-118. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XVIII. COUNT XIII

Assault Against Defendants John and Jane Does, Alias 1-10

119. Defendants incorporate their answers to the said realleged paragraphs.

120-123. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XIX. COUNT XIV

Battery Against Defendants John and Jane Does, Alias 1-10

124. Defendants incorporate their answers to the said realleged paragraphs.

125-128. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XX. COUNT XV

False Imprisonment Against Defendants John and Jane Does, Alias 1-10

129. Defendants incorporate their answers to the said realleged paragraphs.

130-134. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XXI. COUNT XVI

**Intentional Infliction of Emotional Distress
Against Defendants John and Jane Does, Alias 1-10**

135. Defendants incorporate their answers to the said realleged paragraphs.

136-142. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XXII. COUNT XVII

42 U.S.C. § 1983

Supervisory Liability Against Defendants Clements and Pare

143. Defendants incorporate their answers to the said realleged paragraphs.

144-148. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XXIII. COUNT XVIII
42 U.S.C. § 1983

Against Defendant City of Providence

149. Defendants incorporate their answers to the said realleged paragraphs.

150-159. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

XXIV. COUNT XIX

Vicarious Liability Against Defendant City of Providence

160. Defendants incorporate their answers to the said realleged paragraphs.

161-165. Said paragraphs contain counts not directed toward these defendants, and as such, no answer is required. To the extent that these counts allege or imply any wrongful conduct on the part of these defendants, the allegations are denied.

WHEREFORE, defendants demand judgment against the plaintiffs.

AFFIRMATIVE AND/OR OTHER DEFENSES

1. Defendants affirmatively plead assumption of the risk.
2. Defendants affirmatively plead qualified immunity.
3. Defendants affirmatively plead that Counts IV, V, VI, VII and VIII fail to state claims upon which relief can be granted.

DEFENDANTS, KYLE ENDRES and
BRAD McPARLIN,
By their Attorney,

/s/ Michael J. Colucci
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CERTIFICATION

I hereby certify that I have filed the within with the United States District Court on this 15th day of February, 2021, that a copy is available for viewing and downloading via the ECF system, and that I have caused a copy to be sent to:

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